

VALENTI LAW APC

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

STEWART THOMPSON,

Plaintiff,

vs.

NOMADA HOTEL GROUP LLC;
BOYS AND GIRL LLC; and DOES 1-
10,

Defendants.

Case No.:

COMPLAINT FOR:

DENIAL OF CIVIL RIGHTS AND
ACCESS TO PUBLIC FACILITIES
TO PHYSICALLY DISABLED
PERSONS IN VIOLATION OF THE
AMERICANS WITH DISABILITIES
ACT OF 1990, (42 U.S.C. §12101, *et*
seq.) AND THE UNRUH CIVIL
RIGHTS ACT, (CALIFORNIA CIVIL
CODE §51, *et seq.*)

DEMAND FOR JURY TRIAL

1 amend when the true names, capacities, connections, and responsibilities of the
2 Defendants and Does 1 through 10, inclusive, are ascertained.

3 4. Defendants own and owned the property located at 425 Spring Street,
4 Paso Robles, CA 93446 (“Subject Property”) at all relevant times.

5 5. Defendants operate and operated a motel doing business as
6 Farmhouse Motel (“Motel”), located at the Subject Property, at all relevant times.

7 6. Plaintiff alleges that the Defendants have been and are the owners,
8 franchisees, lessees, general partners, limited partners, agents, trustees, employees,
9 subsidiaries, partner companies and/or joint ventures of each of the other
10 Defendants, and performed all acts and omissions stated herein within the course
11 and scope of such relationships causing the damages complained of herein.

12 **II. JURISDICTION AND VENUE**

13 7. This Court has subject matter jurisdiction over this action pursuant to
14 28 U.S.C. §1331 and §1343(a)(3) and (a)(4) for violations of the Americans with
15 Disabilities Act of 1990, U.S.C. §12101, *et seq.*

16 8. Pursuant to supplemental jurisdiction, an attendant and related cause
17 of action, arising out of the same nucleus of operative facts and arising out of the
18 same transactions, is also brought under California’s Unruh Civil Rights Act,
19 which expressly incorporates the Americans with Disabilities Act.

20 9. Venue is proper in this court pursuant to 28 U.S.C. U.S.C. §1391(b)
21 and is founded on the fact that the real property which is the subject of this action
22 is located in this district and that Plaintiff’s causes of action arose in this district.

23 **III. FACTS**

24 10. Plaintiff uses a wheelchair for mobility.

25 11. Defendants’ business is open to the public, a place of public
26 accommodation, and a business establishment.

27 12. Defendant’s Motel and all of its rooms were completely remodeled
28 and altered in or around 2021. Such alterations trigger a legal duty to ensure

1 accessible parking and accessible common areas, as well a minimum number of
2 rooms with mobility features. 2010 ADA §224 et seq.; 2022 CBC 11B-224 et seq..

3 13. In the spring of 2024 Plaintiff wanted to take his wife on a romantic,
4 surprise trip to the area to celebrate their anniversary. Plaintiff and his wife enjoy
5 vacationing in Paso Robles. Enticed by the Motel's convenient location, modern
6 facilities, and high customer ratings, Plaintiff sought to book a room at the Motel
7 for three nights.

8 14. On or around April 1, 2024, Plaintiff visited the Motel's website to
9 obtain information about the Motel's wheelchair accessible guest rooms. He found
10 that the website did not indicate whether the Motel has wheelchair accessible
11 rooms, nor did the website describe any features of wheelchair access that may be
12 provided at the Motel.

13 15. That same day, Plaintiff called the Motel to inquire about the
14 availability of wheelchair accessible guest rooms. He spoke to a front desk staff
15 member who told him that the Motel "is not wheelchair accessible and does not
16 need to be," or words to that effect. Plaintiff was taken aback, frustrated, and
17 dismayed by this response.

18 16. Because Defendants did not offer persons with disabilities equivalent
19 facilities, privileges, advantages, and accommodations offered to other persons he
20 decided to keep looking for an accessible accommodation for himself and his wife.
21 He chose to stay at a different hotel in the area with confirmed wheelchair
22 accessible facilities and amenities.

23 17. Plaintiff would like to patronize the Motel, but he is deterred from
24 doing so unless and until it is brought into compliance with federal and/or
25 California disabled access standards. These include, but are not limited to,
26 providing at least the minimum required number of wheelchair accessible guest
27 rooms; ensuring that the Motel's common areas (including public parking
28 facilities, check-in areas, and gathering areas) are wheelchair accessible; and, once

1 the property is fully compliant with federal and California law (including
2 California access standards that are additional to and/or more stringent than ADA
3 standards), updating the website to provide information about disabled access and
4 accessible accommodations at the Motel, as required by law. 2010 ADA §224 et
5 seq.; 2010 ADA §404.2.3; 2010 ADA §806 et seq.; 2022 CBC 11B-224 et seq.;
6 2022 CBC 11B-224.6; 2022 CBC 11B-225; CBC 11B-404.2.3; 2022 CBC 11B-
7 806 et seq.; 2022 CBC 11B-806.3.1; 2022 CBC 11B-702; 28 C.F.R. §36.302 et
8 seq.

9 18. These inaccessible conditions and barriers denied Plaintiff full and
10 equal access and caused him difficulty, discomfort, and embarrassment.

11 19. These barriers denied Plaintiff full and equal access due to his
12 disability because, *inter alia*, they caused Plaintiff anxiety, difficulty, discomfort,
13 and embarrassment which patrons who do not use a wheelchair for mobility do not
14 suffer if they desire to access the Subject Property.

15 20. Plaintiff encountered barriers that interfered with and denied Plaintiff
16 the ability to use and enjoy the goods, services, privileges, advantages, and
17 accommodations offered by Defendants at the Subject Property.

18 21. These barriers violate one or more standards of the Americans with
19 Disabilities Act (“2010 ADA”) and/or the California Building Codes (“2022
20 CBC”).

21 22. The barriers existed during Plaintiff’s attempt to visit the Subject
22 Property.

23 23. These barriers denied Plaintiff full and equal access due to his
24 disability because, *inter alia*, they caused Plaintiff anxiety, difficulty, discomfort,
25 and embarrassment which patrons who do not use a wheelchair for mobility do not
26 suffer when they desire to access the Subject Property.

27 24. Plaintiff has Article III standing because he attempted to visit the
28 subject property for a vacation stay with his wife. Both he and his wife enjoy

1 vacationing in Paso Robles. Plaintiff intends to return to the Subject Property in the
2 near future to vacation after the accessibility barriers alleged herein have been
3 removed. Until then, he is deterred from booking a room at the Motel.

4 25. Plaintiff alleges that Defendants knew that the barriers prevented
5 equal access. Plaintiff further alleges that Defendants had actual or constructive
6 knowledge that the architectural barriers prevented equal access, and that the
7 noncompliance with the Americans with Disabilities Act and Title 24 of the
8 California Building Code regarding accessible features was intentional.

9 26. Defendants have obstructed or failed to maintain, in working and
10 useable conditions, those features necessary to provide ready access to persons
11 with disabilities. “A public accommodation shall maintain in operable working
12 condition those features of facilities and equipment that are required to be readily
13 accessible to and usable by persons with disabilities.” 28 C.F.R. §36.211(a); 2022
14 CBC 11B-108.

15 27. The State of California Department of General Servicers, Division of
16 the State Architect (DSA) provides commentary to 2022 CBC 11B-108 as follows:

17 Features for accessibility must be permanently functional, unobstructed
18 and may not be removed. It is not sufficient to provide features such as
19 accessible routes, parking, elevators, ramps or signage if those features
20 are not maintained in a manner that enables individuals with disabilities
to use them.

21 DSA, 2019 California Access Compliance Advisory Reference Manual, p.84.

22 28. Defendants have the financial resources to remove these barriers
23 without much expense or difficulty in order to make their property more accessible
24 to their mobility impaired customers. The United States Department of Justice has
25 identified that these types of barriers are readily achievable to remove.

26 29. To date, Defendants refuse to remove these barriers, in violation of
27 the law, willfully depriving disabled persons including Plaintiff of important civil
28 rights.

30. The barriers to access are listed above without prejudice to Plaintiff citing additional barriers to equal access by an amended complaint after inspection by Plaintiff's Certified Access Specialist (CAsp). *Oliver v. Ralphs Grocery Co.*, 654 F.3d 903 (9th Cir. 2011); *Doran v. 7-Eleven, Inc.*, 524 F.3d 1034 (9th Cir. 2008); *Chapman v. Pier One Imports (USA), Inc.*, 631 F.3d 939 (9th Cir. 2011). All of these barriers to access render the premises inaccessible to physically disabled persons who are mobility impaired, such as Plaintiff, are barriers Plaintiff may encounter when he returns to the premises. All public accommodations must be brought into compliance with all applicable federal and state accessibility requirements.

FIRST CAUSE OF ACTION

Violation of the Americans With Disabilities Act of 1990

(42 U.S.C. §12101, *et seq.*)

(Against All Defendants)

31. Plaintiff alleges and incorporates by reference, as if fully set forth again herein, each and every allegation contained in all prior paragraphs of this complaint.

32. More than thirty years ago, the 101st United States Congress found that although "physical or mental disabilities in no way diminish a person's right to fully participate in all aspects of society, yet many people with physical or mental disabilities have been precluded from doing so because of discrimination...in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services." 42 U.S.C. §12101(a).

33. In 1990 Congress also found that "the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals," but that "the continuing existence of unfair and unnecessary discrimination and prejudice

1 denies people with disabilities the opportunity to compete on an equal basis and to
2 pursue those opportunities for which our free society is justifiably famous.” 42
3 U.S.C. §12101(a).

4 34. In passing the Americans with Disabilities Act of 1990, which was
5 signed into law by President George H. W. Bush on July 26, 1990 (hereinafter the
6 “ADA”), Congress stated as its purpose:

7 “It is the purpose of this Act

8 (1) to provide a clear and comprehensive national mandate for the
9 elimination of discrimination against individuals with disabilities;

10 (2) to provide clear, strong, consistent, enforceable standards
11 addressing discrimination against individuals with disabilities;

12 (3) to ensure that the Federal Government plays a central role in
13 enforcing the standards established in this Act on behalf of individuals
14 with disabilities; and

15 (4) to invoke the sweep of congressional authority, including the power
16 to enforce the fourteenth amendment and to regulate commerce, in
17 order to address the major areas of discrimination faced day to-day by
18 people with disabilities.”

19 42 USC §12101(b).

20 35. As part of the ADA, Congress passed “Title III – Public
21 Accommodations and Services Operated by Private Entities” (42 U.S.C. §12181 *et*
22 *seq.*). Title III of the ADA prohibits discrimination against any person “on the
23 basis of disability in the full and equal enjoyment of the goods, services, facilities,
24 privileges, advantages, or accommodations of any place of public accommodation
25 by any person who owns, leases (or leases to), or operates a place of public
26 accommodation.” 42 U.S.C. §12182(a).

27 36. The specific prohibitions against discrimination include, *inter alia*, the
28 following:

- 1 • 42 U.S.C. §12182(b)(1)(A)(ii): “Participation in Unequal Benefit. - It
2 shall be discriminatory to afford an individual or class of individuals,
3 on the basis of a disability or disabilities of such individual or class,
4 directly, or through contractual, licensing, or other arrangements, with
5 the opportunity to participate in or benefit from a good, service, facility,
6 privilege, advantage, or accommodation that is not equal to that
7 afforded to other individuals.”
- 8 • 42 U.S.C. §12182(b)(2)(A)(ii): “a failure to make reasonable
9 modifications in policies, practices, or procedures when such
10 modifications are necessary to afford such goods, services, facilities,
11 privileges, advantages, or accommodations to individuals with
12 disabilities...;”
- 13 • 42 U.S.C. §12182(b)(2)(A)(iii): “a failure to take such steps as may be
14 necessary to ensure that no individual with a disability is excluded,
15 denied service, segregated, or otherwise treated differently than other
16 individuals because of the absence of auxiliary aids and services...;”
- 17 • 42 U.S.C. §12182(b)(2)(A)(iv): “a failure to remove architectural
18 barriers, and communication barriers that are structural in nature, in
19 existing facilities... where such removal is readily achievable;”
- 20 • 42 U.S.C. §12182(b)(2)(A)(v): “where an entity can demonstrate that
21 the removal of a barrier under clause (iv) is not readily achievable, a
22 failure to make such goods, services, facilities, privileges, advantages,
23 or accommodations available through alternative methods if such
24 methods are readily achievable.”

25 37. Plaintiff is a qualified individual with a disability as defined in the
26 Rehabilitation Act and in the Americans with Disabilities Act of 1990.

27 38. The acts and omissions of Defendants set forth herein were in
28 violation of Plaintiff’s rights under the ADA and the regulations promulgated
thereunder, 28 C.F.R. Part 36 *et seq.*

39. The removal of each of the physical and policy barriers complained of
by Plaintiff as hereinabove alleged, were at all times herein mentioned “readily
achievable” under the standards of §12181 and §12182 of the ADA. Removal of

1 each and every one of the architectural and/or policy barriers complained of herein
2 was already required under California law. Further, on information and belief,
3 alterations, structural repairs or additions since January 26, 1993, have also
4 independently triggered requirements for removal of barriers to access for disabled
5 persons per §12183 of the ADA. In the event that removal of any barrier is found
6 to be “not readily achievable,” Defendants still violated the ADA, per
7 §12182(b)(2)(A)(v) by failing to provide all goods, services, privileges, advantages
8 and accommodations through alternative methods that were “readily achievable.”

9 40. On information and belief, as of the date of Plaintiff’s encounter at the
10 premises and as of the filing of this Complaint, Defendants’ actions, policies, and
11 physical premises have denied and continue to deny full and equal access to
12 Plaintiff and to other mobility disabled persons in other respects, which violate
13 Plaintiff’s right to full and equal access and which discriminate against Plaintiff on
14 the basis of his disabilities, thus wrongfully denying to Plaintiff the full and equal
15 enjoyment of the goods, services, facilities, privileges, advantages and
16 accommodations, in violation of 42 U.S.C. §12182 and §12183 of the ADA.

17 41. Defendants’ actions continue to deny Plaintiff’s rights to full and
18 equal access and discriminated and continue to discriminate against him on the
19 basis of his disabilities, thus wrongfully denying to Plaintiff the full and equal
20 enjoyment of Defendants’ goods, services, facilities, privileges, advantages and
21 accommodations, in violation of the ADA, 42 U.S.C. §12182.

22 42. Further, each and every violation of the Americans With Disabilities
23 Act of 1990 also constitutes a separate and distinct violation of California Civil
24 Code §51(f), §52, §54(c) and §54.1(d), thus independently justifying an award of
25 damages and injunctive relief pursuant to California law, including but not limited
26 to Civil Code §54.3 and §55.

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1 **SECOND CAUSE OF ACTION**

2 Violation of the Unruh Civil Rights Act

3 (California Civil Code §51, *et seq.*)

4 (Against All Defendants)

5 43. Plaintiff alleges and incorporates by reference, as if fully set forth
6 again herein, each and every allegation contained in all prior paragraphs of this
7 complaint.

8 44. California Civil Code §51 provides that physically disabled persons
9 are free and equal citizens of the state, regardless of their medical condition or
10 disability:

11 All persons within the jurisdiction of this state are free and equal, and
12 no matter what their sex, race, color, religion, ancestry, national origin,
13 **disability, or medical condition** are entitled to full and equal
14 accommodations, advantages, facilities, privileges, or services in all
business establishments of every kind whatsoever.

15 California Civil Code §51(b) (emphasis added).

16 45. California Civil Code §51.5 also states, in part: “No business,
17 establishment of any kind whatsoever shall discriminate against...any person in
18 this state on account” of their disability.

19 46. California Civil Code §51(f) specifically incorporates (by reference)
20 an individual’s rights under the ADA into the Unruh Act.

21 47. California Civil Code §52 provides that the discrimination by
22 Defendants against Plaintiff on the basis of his disability constitutes a violation of
23 the general antidiscrimination provisions of §51 and §52.

24 48. Each of Defendants’ discriminatory acts or omissions constitutes a
25 separate and distinct violation of California Civil Code §52, which provides that:

26 Whoever denies, aids or incites a denial, or makes any discrimination
27 or distinction contrary to section 51, 51.5, or 51.6 is liable for each and
28 every offense for the actual damages, and any amount that may be
determined by a jury, or a court sitting without a jury, up to a maximum

1 of three times the amount of actual damage but in no case less than four
2 thousand dollars (\$4,000), and any attorney's fees that may be
3 determined by the court in addition thereto, suffered by any person
4 denied the rights provided in Section 51, 51.5, or 51.6.

49. Any violation of the Americans with Disabilities Act of 1990
5 constitutes a violation of California Civil Code §51(f), thus independently
6 justifying an award of damages and injunctive relief pursuant to California law,
7 including Civil Code §52. Per Civil Code §51(f), "A violation of the right of any
8 individual under the Americans with Disabilities Act of 1990 (Public Law 101-
9 336) shall also constitute a violation of this section."

10 50. The actions and omissions of Defendants as herein alleged constitute a
11 denial of access to and use of the described public facilities by physically disabled
12 persons within the meaning of California Civil Code §51 and §52.

13 51. The discriminatory denial of equal access to and use of the described
14 public facilities caused Plaintiff difficulty, discomfort, and embarrassment.

15 52. As a proximate result of Defendants' action and omissions,
16 Defendants have discriminated against Plaintiff in violation of Civil Code §51 and
17 §52, and are responsible for statutory, compensatory and actual damages to
18 Plaintiff, according to proof.

19 **PRAYER FOR RELIEF**

20 Plaintiff has no adequate remedy at law to redress the wrongs suffered as set
21 forth in this Complaint. Plaintiff has suffered and will continue to suffer
22 irreparable injury as a result of the unlawful acts, omissions, policies, and
23 practices of the Defendants as alleged herein, unless Plaintiff is granted the relief
24 he requests. Plaintiff and Defendants have an actual controversy and opposing
25 legal positions as to Defendants' violations of the laws of the United States and
26 the State of California.

1 The need for relief is critical because the civil rights at issue are paramount
2 under the laws of the United States of America and the State of California.

3 WHEREFORE, Plaintiff prays judgment against Defendants, and each of
4 them, as follows:

5 1. Issue a preliminary and permanent injunction directing
6 Defendants as current owners, operators, lessors, and/or lessees of the
7 Subject Property and premises to modify the above described property,
8 premises, policies and related facilities to provide full and equal access
9 to all persons, including persons with physical disabilities; and issue a
10 preliminary and permanent injunction pursuant to ADA §12188(a) and
11 state law directing Defendants to provide facilities and services usable
12 by Plaintiff and similarly situated persons with disabilities, and which
13 provide full and equal access, as required by law, and to maintain such
14 accessible facilities once they are provided; to cease any discriminatory
15 policies; and to train Defendants' employees and agents how to
16 recognize disabled persons and accommodate their rights and needs;

17 2. Retain jurisdiction over the Defendants until such time as
18 the Court is satisfied that Defendants' unlawful policies, practices, acts
19 and omissions, and maintenance of physically inaccessible public
20 facilities and policies as complained of herein no longer occur, and
21 cannot recur;

22 3. Award to Plaintiff all appropriate damages, including but
23 not limited to actual and statutory damages according to proof;

24 4. Award to Plaintiff all reasonable attorney fees, litigation
25 expenses, and costs of this proceeding pursuant to 42 U.S.C §12205 and
26 California Civil Code §52; and,

27 5. Grant such other and further relief as this Court may deem
28 just and proper.

DATED: January 31, 2025

VALENTI LAW APC

By: /s/ Matthew D. Valenti

Matthew D. Valenti
Attorney for Plaintiff
Stewart Thompson

JURY DEMAND

Plaintiff hereby demands a trial by jury for all claims and issues for which a jury is permitted.

DATED: January 31, 2025

VALENTI LAW APC

By: /s/ Matthew D. Valenti

Matthew D. Valenti
Attorney for Plaintiff
Stewart Thompson